

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

JACQUELINE JOHNSON,

Plaintiff,

v.

Case No. 07-C-159-C

THE PROCTOR & GAMBLE CO., et al.,

Defendants.

**NOTICE OF MULTIDISTRICT CONSOLIDATION,
CONDITIONAL TRANSFER, AND REQUEST FOR CONTINUED STAY**

To: All Counsel of Record

PLEASE TAKE NOTICE THAT, on June 19, 2007, the Judicial Panel on Multidistrict Litigation (the "JPML") issued a Transfer Order, creating a new multidistrict proceeding entitled *In re Pet Food Products Liability Litigation* (the "MDL"), and assigning the MDL to Judge Noel L. Hillman of the District of New Jersey (attached hereto as Exhibit A). On June 28, 2007, the JPML issued a Conditional Transfer Order, conditionally transferring this case to the MDL, pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation (attached hereto as Exhibit B).

In light of the likely imminent transfer of this case, Menu Foods Income Fund and Menu Foods, Inc., request that the current stay of proceedings remain in place pending transfer to the MDL, in order to serve the interests of judicial economy.

Dated this 6th day of July, 2007.

QUARLES & BRADY LLP

s/ Matthew J. Duchemin

DONALD K. SCHOTT

State Bar No. 1010075

MATTHEW J. DUCHEMIN

State Bar No. 1027594

33 East Main Street, Suite 900

Madison, WI 53703

Phone: 608.251.5000

Fax: 608.251.9166

Attorneys for Menu Foods Income Fund and
Menu Foods, Inc.

Exhibit A

Filed/Received
 06/22/2007 04:45:05 PM CDT

JUDICIAL PANEL ON
 MULTIDISTRICT LITIGATION

JUN 19 2007

RELEASED FOR PUBLICATION

DOCKET NO. 1850

FILED
 CLERK'S OFFICE

**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
 IN RE PET FOOD PRODUCTS LIABILITY LITIGATION**

**BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J.
 FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL,
 DAVID R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE PANEL**

TRANSFER ORDER

This litigation presently consists of thirteen actions listed on the attached Schedule A and pending in eight districts as follows: five actions in the Western District of Washington; two actions in the Western District of Arkansas; and one action each in the Central District of California, the District of Connecticut, the Southern District of Florida, the Northern District of Illinois, the District of New Jersey, and the Eastern District of Tennessee. Before the Panel are three motions, pursuant to 28 U.S.C. § 1407, that taken together seek centralization for coordinated or consolidated pretrial proceedings of all of these actions.¹ All responding parties agree that centralization is appropriate, but differ regarding the most appropriate transferee district for this litigation. In favor of the District of New Jersey as transferee district are moving Central District of California and Southern District of Florida plaintiffs and plaintiffs in the District of Connecticut, the District of New Jersey, and three of the Western District of Washington actions before the Panel, as well as plaintiffs in fourteen potentially related actions. Plaintiffs in two of the five Western District of Washington actions move for centralization in the Western District of Washington; plaintiffs in the Eastern District of Tennessee action support centralization there; and plaintiffs in the other three Western District of Washington actions alternatively support centralization there. In favor of the Western District of Arkansas as transferee district are plaintiffs in the two Western District of Arkansas actions and the Northern District of Illinois action, and plaintiffs in six potentially related actions. Plaintiffs in two potentially related District of New Jersey actions alternatively support centralization in the Western District of Arkansas. Supporting the Northern District of Illinois as transferee district are all responding defendants, including Menu Foods, Inc., and its related entities, and plaintiffs in one potentially related action. In favor of the Central District of California as transferee district are plaintiffs in nine potentially related actions. Finally, plaintiff in a potentially related Northern District of Ohio action suggests centralization in the Northern District of Ohio.

On the basis of the papers filed and hearing session held, the Panel finds that the actions in this

^{*} Judge Miller did not participate in the decision of this matter.

¹ The Panel has been notified of 97 potentially related actions pending in multiple federal districts. In light of the Panel's disposition of this docket, these actions will be treated as potential tag-along actions. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

-2-

litigation involve common questions of fact, and that centralization under Section 1407 in the District of New Jersey will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. All actions stem from the recall of pet food products allegedly tainted by melamine found in wheat gluten imported from China and used in these products. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery; avoid inconsistent pretrial rulings, especially with respect to class certification; and conserve the resources of the parties, their counsel and the judiciary.

Although several districts could be described as an appropriate transferee forum for this nationwide litigation, we are persuaded to select the District of New Jersey. Pretrial proceedings are advancing well there and about one-third of all pending actions are already in this district.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on the attached Schedule A and pending outside the District of New Jersey are transferred to the District of New Jersey and, with the consent of that court, assigned to the Honorable Noel L. Hillman for coordinated or consolidated pretrial proceedings with the actions pending there and listed on Schedule A.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

SCHEDULE A

MDL-1850 -- In re Pet Food Products Liability Litigation

Western District of Arkansas

Charles Ray Sims, et al. v. Menu Foods Income Fund, et al., C.A. No. 5:07-5053
Richard Scott Widen, et al. v. Menu Foods, Inc., et al., C.A. No. 5:07-5055

Central District of California

Shirley Sexton v. Menu Foods Income Fund, et al., C.A. No. 2:07-1958

District of Connecticut

Lauri A. Osborne v. Menu Foods, Inc., C.A. No. 3:07-469

Southern District of Florida

Christina Trotano v. Menu Foods, Inc., et al., C.A. No. 0:07-60428

Northern District of Illinois

Dawn Majerczyk v. Menu Foods, Inc., C.A. No. 1:07-1543

District of New Jersey

Jared Workman, et al. v. Menu Foods Ltd., et al., C.A. No. 1:07-1338

Eastern District of Tennessee

Lizajean Holt, et al. v. Menu Foods, Inc., C.A. No. 3:07-94

Western District of Washington

Tom Whaley v. Menu Foods, Inc., et al., C.A. No. 2:07-411
Stacey Heller, et al. v. Menu Foods, Inc., C.A. No. 2:07-453
Audrey Kornelius, et al. v. Menu Foods, Inc., C.A. No. 2:07-454
Suzanne E. Johnson, et al. v. Menu Foods, Inc., C.A. No. 2:07-455
Michele Suggett, et al. v. Menu Foods, Inc., et al., C.A. No. 2:07-457

Exhibit B

06/28/2007 14:48 FAX 2025022888

JPML

002

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

JUN 28 2007

FILED
CLERK'S OFFICE

DOCKET NO. 1850

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
IN RE PET FOOD PRODUCTS LIABILITY LITIGATION
(SEE ATTACHED SCHEDULE)

CONDITIONAL TRANSFER ORDER (CTO-1)

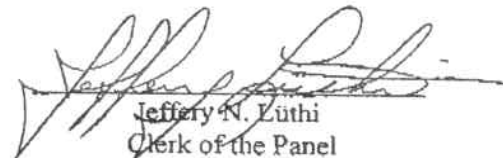
On June 19, 2007, the Panel transferred 12 civil actions to the United States District Court for the District of New Jersey for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See* _F.Supp.2d_ (J.P.M.L. 2007). With the consent of that court, all such actions have been assigned to the Honorable Noel L. Hillman.

It appears that the actions on this conditional transfer order involve questions of fact that are common to the actions previously transferred to the District of New Jersey and assigned to Judge Hillman.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the District of New Jersey for the reasons stated in the order of June 19, 2007, and, with the consent of that court, assigned to the Honorable Noel L. Hillman.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the District of New Jersey. The transmittal of this order to said Clerk shall be stayed 15 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 15-day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:


Jeffery N. Lüthi
Clerk of the Panel

06/28/2007 14:49 FAX 2025022888

JPML

003

PAGE 1 OF 3

SCHEDULE CTO-20 - TAG-ALONG ACTIONS
DOCKET NO. 1850
IN RE PET FOOD PRODUCTS LIABILITY LITIGATION

<u>DIST. DIV. C.A. #</u>	<u>CASE CAPTION</u>
ARKANSAS EASTERN ARE 4 07-376	Scott Stacey, et al. v. Nestle SA, et al.
ARKANSAS WESTERN ARW 4 07-4036 ARW 5 07-5065	Kirby Cooper v. Menu Foods Income Fund, et al. Sandra L. Gray, et al. v. Menu Foods, et al.
CALIFORNIA CENTRAL CAC 2 07-1987 CAC 2 07-2060 CAC 2 07-2253 CAC 2 07-2338 CAC 2 07-2476 CAC 2 07-2779 CAC 2 07-2964 CAC 5 07-398	Paul Randolph Johnson, et al. v. Menu Foods, Inc., et al. Dawn Howe v. Menu Foods Ltd., et al. Lois Grady, et al. v. Menu Foods Income Fund, et al. Kelly Finestone v. Menu Foods, Inc., et al. Richard Chamberlain v. Nestle SA, et al. Ken Wahl, et al. v. Menu Foods Income Fund, et al. Jayne Englander, et al. v. Menu Foods Income Fund, et al. Dennis Lee Townsend, et al. v. Menu Foods Ltd., et al.
CALIFORNIA EASTERN CAE 2 07-654	Cheryl Carver v. Del Monte Foods Co., et al.
CALIFORNIA NORTHERN CAN 3 07-1809 CAN 3 07-2665	Sherry Ingles v. Menu Foods, Inc., et al. Diane Lowery v. Menu Foods Income Fund, et al.
CALIFORNIA SOUTHERN CAS 3 07-705 CAS 3 07-706 CAS 3 07-734 CAS 3 07-951	Robert Payne, et al. v. Menu Foods, Inc., et al. Diane Swarberg v. Menu Foods Holding, Inc., et al. Hayley Ford, et al. v. Menu Foods Income Fund, et al. John Colliard v. Menu Foods, Inc., et al.
COLORADO CO 1 07-736	Emily Tompkins v. Menu Foods Midwest Corp., et al.
FLORIDA MIDDLE FLM 2 07-235 FLM 6 07-803	Maria Teresa Ferrarese v. Menu Foods, Inc., et al. George Birney, et al. v. Menu Foods, Inc.
FLORIDA SOUTHERN FLS 1 07-20955	Stephen Donnelly, et al. v. Menu Foods, Inc., et al.
IDAHO ID 1 07-160	Larry Klimes, et al. v. Menu Foods
ILLINOIS NORTHERN ILN 1 07-2162 ILN 1 07-2183 ILN 1 07-2211 ILN 1 07-2237	Heather Amro v. Menu Foods Income Fund, et al. Gary Bruski v. Menu Foods, Inc., et al. Raymond Demith, et al. v. Nestle Purina Petcare Co., et al. Sonja Foxe v. Menu Foods, Inc., et al.

06/28/2007 14:49 FAX 2025022888

JPML

004

SCHEDULE CTO-1 - TAG-ALONG ACTIONS (MDL-1850)

PAGE 2 OF 3

DIST. DIV. C.A. #CASE CAPTION

MASSACHUSETTS

MA 1 07-10745

Lidia Rodrigues v. Menu Foods, Inc., et al.

MA 1 07-10797

Megan Connerton, et al. v. Menu Foods Midwest Corp., et al.

MAINE

ME 2 07-54

Mara Brazilian v. Menu Foods Income Fund, et al.

MINNESOTA

MN 0 07-1808

Stephanie Rozman v. Menu Foods Midwest Corp., et al.

MN 0 07-2108

Wendy Krosschell v. Menu Foods Income Fund, et al.

MISSOURI WESTERN

MOW 3 07-5041

Richard Schwinger v. Menu Foods, et al.

MISSISSIPPI SOUTHERN

MSS 5 07-105

Sarah Cavin v. Menu Foods, et al.

NEVADA

NV 2 07-686

Maragaret Picus v. Wal-Mart Stores, Inc., et al.

NV 3 07-159

Marion Streczyn v. Menu Foods, Inc., et al.

NEW YORK SOUTHERN

NYS 1 07-3236

Mark Cashman, et al. v. Menu Foods Midwest Corp., et al.

OHIO NORTHERN

OHN 1 07-1018

Gregory Boehm v. Menu Foods, Inc., et al.

PENNSYLVANIA MIDDLE

PAM 1 07-929

Dixie Keller v. Menu Foods Ltd., et al.

RHODE ISLAND

RI 1 07-115

Carol Brown v. Menu Foods, Inc., et al.

TENNESSEE EASTERN

TNE 3 07-98

Barbara Light v. Menu Foods Income Fund

WASHINGTON WESTERN

WAW 2 07-575

Laura Migliore v. Menu Foods

WAW 2 07-576

Gail Moran v. Menu Foods

WAW 2 07-577

Sheryl Puett v. Menu Foods

WAW 2 07-634

Daniel Ray Reeves v. Menu Foods

WAW 2 07-666

Sheree A. Robinson v. Menu Foods

WAW 2 07-667

Phyllis A. Ullman v. Menu Foods

WAW 2 07-668

Elizabeth Palmer v. Menu Foods

WAW 2 07-669

Jason Labbate v. Menu Foods

WAW 2 07-670

Megan Whitt v. Menu Foods

WAW 2 07-684

Linda Weitz v. Menu Foods

WAW 2 07-685

Michelle Adams v. Menu Foods

08/28/2007 14:49 FAX 2025022888

JPML

005

SCHEDULE CTO-1 - TAG-ALONG ACTIONS (MDL-1850)

PAGE 3 OF 3

DIST. DIV. C.A. #CASE CAPTION

WAW 2 07-686
WAW 2 07-687
WAW 2 07-688
WAW 2 07-689
WAW 2 07-690
WAW 2 07-745
WAW 2 07-746
WAW 2 07-747
WAW 2 07-748
WAW 2 07-749
WAW 3 07-5204
WAW 3 07-5205

Lerae Dineen v. Menu Foods
Sandra Shingle v. Menu Foods
Gary Thomas v. Menu Foods
Deborah A. Mullen v. Menu Foods
Helen Percy v. Menu Foods
Paula Monk v. Menu Foods
Tony Boyer v. Menu Foods
Norman Brenton v. Menu Foods
Lynda Nagel v. Menu Foods
Teresa Eilers v. Menu Foods
Jeff Rusiecki v. Menu Foods
Nancy Guthrie v. Menu Foods

WISCONSIN WESTERN

WIW 3 07-159
WIW 3 07-248

Jacqueline Johnson v. The Procter & Gamble Co., et al.
Penny J. Roberts, et al. v. Menu Foods Income Fund, et al.